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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 BOBIDAWN COFFMAN,

11 Plaintiff,

12 v.

13 CAROLYN W. COLVIN,

14 Defendant.

CASE NO. C12-5812JLR

ORDER ADOPTING
MAGISTRATE JUDGE'S
REPORT AND
RECOMMENDATION

15 **I. INTRODUCTION**

16 This matter is before the court on the Report and Recommendation ("R&R") of
17 Magistrate Judge Brian A. Tsuchida affirming the Administrative Law Judge's ("ALJ")
18 decision to deny Plaintiff Bobidawn Coffman's application for Disability Insurance
19 Benefits and dismiss her complaint (*see* R&R (Dkt. # 20)) and Ms. Coffman's objections
20 thereto (*see* Obj. (Dkt. # 21)). Having considered the foregoing, along with all
21 submissions filed in support and opposition thereto, the governing law, and the balance of
22 the record, the court ADOPTS the R&R (Dkt. # 20), AFFIRMS the decision of the ALJ,

1 DISMISSES Ms. Coffman's complaint, and ORDERS the Clerk to direct copies of this
2 Order to all counsel of record and to Magistrate Judge Tsuchida.

3 **II. BACKGROUND**

4 Ms. Coffman is 50 years old, has a general equivalency degree and one year of
5 college education, and has previously worked as a cashier, journeyman cashier, and a
6 salesperson. On July 21, 2009, she applied for disability insurance benefits under the
7 Social Security Act, alleging disability as of June 10, 2006, due to fibromyalgia,
8 peripheral neuropathy of unknown etiology (pain and burning in both feet), and
9 depression, among other impairments. Plaintiff's claims for disability were denied
10 initially and on reconsideration. An Administrative Law Judge ("ALJ") held a hearing on
11 January 19, 2011, and subsequently found that Ms. Coffman was not disabled. On July
12 12, 2012, the Appeals Council denied Ms. Coffman's request for review, rendering the
13 ALJ's decision the final decision of the Commissioner of the Social Security
14 Administration. Plaintiff sought judicial review of the Commissioner's decision. (*See*
15 *Compl. (Dkt. # 3).*) On May 30, 2013, the Magistrate Judge issued an R&R affirming the
16 ALJ's decision and dismissing Ms. Coffman's complaint with prejudice. (*See generally*
17 *R&R.*) Ms. Coffman timely filed an objection to the R&R. (*Obj. (Dkt. # 21).*)

18 **III. ANALYSIS**

19 **A. Standard of Review**

20 A district court has jurisdiction to review a Magistrate Judge's R&R on dispositive
21 matters. Fed. R. Civ. P. 72(b). "The district judge must determine de novo any part of
22 the magistrate judge's disposition that has been properly objected to." *Id.* "A judge of

1 the court may accept, reject, or modify, in whole or in part, the findings or
2 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The court
3 reviews de novo those portions of the report and recommendation to which specific
4 written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.
5 2003) (en banc). “The statute makes it clear that the district judge must review the
6 magistrate judge’s findings and recommendations de novo if objection is made, but not
7 otherwise.” *Id.*

8 **B. Plaintiff’s Objection**

9 Ms. Coffman has limited her objection to Magistrate Judge Tsuchida’s finding
10 “that the ALJ did not err in assessing the State Agency Consultants’ opinions.” (Obj. at 1
11 (citing R&R at 7).) Thus, this is the only portion of the R&R that is subject to the court’s
12 review. Specifically, Ms. Coffman asserts that “the medical opinions of state agency
13 consultants, Drs. Lysak and Comrie[,] contained in the Mental Residual Functional
14 Capacity Assessment (“MRFCA”) form were not properly rejected by the ALJ and the
15 Magistrate’s findings contain an error of law.” (*Id.* at 2.) An ALJ must evaluate every
16 medical opinion in the record. *See* 20 C.F.R. § 404.1527(c). Additionally, “[i]f the RFC
17 assessment conflicts with an opinion from a medical source, the [ALJ] must explain why
18 the opinion was not adopted.” *See* Social Security Ruling (“SSR”) 96–8p, 1996 WL
19 374184, at *7 (July 2, 1996). The court, however, finds unpersuasive Ms. Coffman’s
20 continued challenge to the ALJ’s treatment of the MRFCA form for the reasons stated
21 below.
22

Section I of the MRFC form, entitled “Summary Conclusions,” consists of a checklist or worksheet utilized by the psychiatrist or psychologist to ensure that the psychiatrist or psychologist has considered each relevant mental activity. *See* Program Operations Manual System (“POMS”) DI 25020.010(B)(1), *available at* <https://secure.ssa.gov/apps10/poms.nsf/lnx/0425020010> . Dr. Lysak identified several areas in Section I in which he determined that Ms. Coffman is moderately limited.¹

Section III of the MRFC form, entitled “Functional Capacity Assessment,” is the narrative written by the psychiatrist or psychologist that adjudicators use as the assessment of residual functional capacity (“RFC”). *See id.* Citing Social Security Ruling 96-5p,² Ms. Coffman argues that Section I of the MRFC form is a “medical source statement” and thus an “opinion,” and that Section III of the MRFC form is not a medical opinion, but rather an administrative finding. (*See* Obj. at 2-3.) Based on this interpretation, Ms. Coffman argues that the ALJ should have addressed each checked box or explained any rejection of a checked box in Section I and that the ALJ’s failure to do so was error. (*See id.*)

¹Those areas include Ms. Coffman’s ability to (1) remember locations and work-like procedures, (2) carry out detailed instructions, (3) perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, (4) work in coordination with or proximity to others without being distracted by them, (5) complete a normal work-day and work-week without interruptions from psychologically-based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods, (6) ask simple questions, (7) accept instructions and respond appropriately to criticism from supervisors, (8) get along with coworkers or peers without distracting them or exhibiting behavioral extremes, (9) respond appropriately to changes in work settings, and (10) set realistic goals or make plans independently of others. (*See* Pl. Opening Br. (Dkt. # 17) at 4-5 (citing Dkt. # 12 at 354).)

² *See* SSR 96-5p, 1996 WL 374183 at * 2 (July 2, 1996),

1 Contrary to Ms. Coffman's assertions, however, her interpretation of the import of
2 Sections I and III of the MRFCA form finds no support in SSR 96-5p as the
3 Commissioner points out. (*See* Resp. (Dkt. # 23) at 3.) Specifically, SSR 96-5p states:

4 Medical and psychological consultants in the State agencies are
5 adjudicators at the initial and reconsideration determination levels (except
6 in disability hearings--see 20 CFR 404.914 ff. and 416.1414 ff.). As such,
7 they do not express opinions; they make findings of fact that become part
8 of the determination. However, 20 CFR 404.1527(f) and 416.927(f)
9 provide that, at the administrative law judge and Appeals Council levels of
10 the administrative review process, medical and psychological consultant
findings about the nature and severity of an individual's impairment(s),
including any RFC assessments, become opinion evidence. Adjudicators at
these levels, including administrative law judges and the Appeals Council,
must consider these opinions as expert opinion evidence of nonexamining
physicians and psychologists and must address the opinions in their
decisions.

11 SSR 96-5p, 1996 WL 374183 at *6 (July 2, 1996). Thus, even if Section III of the
12 MRFCA form is initially considered an administrative finding of the RFC of a petitioner,
13 at the hearing level Section III is to be considered a medical opinion by the ALJ.

14 Further, the ALJ not only was required to address Section III because it was a
15 medical opinion, but also because the ALJ was instructed to rely upon Section III, rather
16 than the checkboxes of Section I, in accord with agency policy. As explained in the
17 agency's Program Operations Manual, an ALJ properly focuses on the "narrative"
18 portion of the MRFCA form, rather than the "Summary Conclusions" portion. *See*
19 Program Operations Manual System ("POMS") DI 25020.010(B)(1), *available at*
20 <https://secure.ssa.gov/apps10/poms.nsf/lnx/0425020010>. The POMS provides:

21 The purpose of section I ("Summary Conclusion") on the SSA-4734-F4-
22 SUP is chiefly to have a worksheet to ensure that the psychiatrist or
psychologist has considered each of these pertinent mental activities and

1 the claimant's or beneficiary's degree of limitation for sustaining these
 2 activities over a normal workday and workweek on an ongoing,
 3 appropriate, and independent basis. **It is the narrative** written by the
 4 psychiatrist or psychologist **in section III** ("Functional Capacity
 5 Assessment") of form SSA-4734-F4-SUP **that adjudicators are to use as**
 6 **the assessment of RFC.** Adjudicators must take the RFC assessment **in**
 7 **section III** and decide what significance the elements discussed in this RFC
 8 assessment have in terms of the person's ability to meet the mental
 9 demands of past work or other work. This must be done carefully using the
 10 adjudicator's informed professional judgment.

11 *Id.* (bolding in original). Although POMS "does not have the force of law," it "is
 12 persuasive authority." *Warre v. Comm'r of the Soc. Sec. Admin.*, 439 F.3d 1001, 1005
 13 (9th Cir. 2006). Ms. Coffman provides no compelling argument to overcome the plain
 14 meaning of these instructions. It is clear that the ALJ acted in accordance with the
 15 agency's established procedures when the ALJ relied on the narrative portion of the
 16 MRFCA form known as the Functional Capacity Assessment (Section III) rather than on
 17 the limitations recorded in the Summary Conclusions (Section I).

18 Numerous other courts have held likewise, including several within this district.
 19 *See, e.g., Smith v. Comm'r of Soc. Sec.*, 631 F.3d 632, 636-37 (3d Cir. 2010) (finding no
 20 error where the ALJ accords little or no weight to a medical source's findings at Section
 21 I, explaining that Section I is simply part of a worksheet to aid the physician as contrasted
 22 with Section III, which reflects the RFC assessment, and further concluding that the
 claimant "cannot rely on the worksheet component" of a MRFCA form); *Sullivan v.*
Colvin, No. 12-5147, 2013 WL 950970, at *3 (10th Cir. Mar. 13, 2013) (discussing
 similar instruction in POMS DI 24510.060 and finding no error in ALJ's failure to
 mention moderate limitations on performance indicated in Section I); *Jones v. Comm'r*

1 of Soc. Sec., 478 F. App'x 610, 612 (11th Cir. 2012) (rejecting claimant's contention that
2 the ALJ should have accounted for the marked limitations the medical source identified
3 in Section I of a MRFC form, explaining that the boxes checked in Section I "are only
4 part of a worksheet that does not constitute the doctors' actual RFC assessment"); *Riley v.*
5 *Astrue*, No. C11-5318-TSZ-MAT, 2012 WL 628540, at *8 (W.D. Wash. Feb. 7, 2012)
6 ("[T]he ALJ acted in accord with the agency's established procedures when he relied on
7 the narrative portion of [the doctor's] opinion set forth in the Functional Capacity
8 Assessment rather than the limitations recorded in the Summary Conclusions section,"
9 and accordingly properly evaluated the doctor's opinion); *Aponte v. Astrue*, No. C11-
10 5671-JCC-BAT, 2012 WL 2882988, at *8 (W.D. Wash. June 7, 2012) (same); *Johnson v.*
11 *Astrue*, No. C11-5668-RAJ-JPD, 2012 WL 1932119, at *8-*9 (W.D. Wash. Apr. 30,
12 2012) (same); *Strong v. Astrue*, No. C11-5558-RSL, 2012 WL 993529, at *9-*10 (W.D.
13 Wash. Mar. 1, 2012) (same).

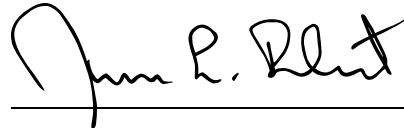
14 As the Magistrate Judge noted, the ALJ's RFC assessment reflects an appropriate
15 focus on the narrative portion of the MRFC form. The ALJ credited the restriction on
16 working with the general public, found that the restriction on simple, routine work was
17 not consistent with the medical evidence, and explained in other portions of her decision
18 why she found Ms. Coffman to be less limited as to concentration. (*See* R&R at 8 (citing
19 Tr. at 15, 19-20).) Accordingly, the ALJ properly evaluated Drs. Lysak and Comrie's
20 opinions by addressing the limitations found in the narrative portion of the MRFC form,
21 and her decision explains why she credited one limitation and rejected others identified
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1 therein. The court, therefore, denies Ms. Coffman's objection, adopts the R&R, affirms
2 the decision of the ALJ, and dismisses Ms. Coffman's complaint.

3 **IV. CONCLUSION**

4 Based on the foregoing analysis, the court DENIES Ms. Coffman's objection (Dkt.
5 # 21), ADOPTS the R&R (Dkt. # 20), AFFIRMS the decision of the ALJ, DISMISSES
6 Ms. Coffman's complaint with prejudice, and ORDERS the Clerk to direct copies of this
7 Order to all counsel of record and to Magistrate Judge Tsuchida.

8 Dated this 10th day of July, 2013.

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11 JAMES L. ROBART
12 United States District Judge
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